

BEFORE THE HUMAN RIGHTS COMMISSION  
OF THE STATE OF MONTANA

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ROBERT JUDGE,

Case #0091013539

Charging Party,

ORDER

-v-

WESTERN ENERGY COMPANY,

Respondent.

Robert Judge (Judge) filed a complaint with the Department of Labor and Industry (Department) alleging that Western Energy Company discriminated against him based on age and disability when they failed to reinstate him as a heavy equipment operator, when they failed to hire him for any new heavy equipment operator positions and when they failed to hire him for a warehouse position.

Following an informal investigation, the Department determined that a preponderance of the evidence did not support Judge's allegations of unlawful discrimination. The Department issued a Notice of Dismissal. Judge filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on September 23, 2009.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Section 49-2-511(2), MCA*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint in this case is not an abuse of discretion.

If a charging party chooses to commence a civil action in district court, the charging party has 90 days after the date this order is issued to file a complaint in district court, in the district where the alleged violation occurred, for the appropriate

relief. *Section 49-2-511(3)(a), MCA*. If a charging party fails to commence a civil action within 90 days, their claims are time barred. *Id.*

Alternatively, a party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Section 49-2-511(3)(b), MCA; Mont. Code Ann. § 2-4-702*. This review must be requested within 30 days after the date this order is issued.

IT IS HEREBY ORDERED, that Robert Judge's objections are **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss the complaint against Western Energy Company.

DATED this 5<sup>th</sup> Day of October 2009

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Chair Ryan C. Rusche  
Human Rights Commission

## CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this 5<sup>th</sup> Day of October 2009

ROBERT JUDGE  
PO BOX 865  
COLSTRIP MT 59323

TERRY SPRENGER  
WESTERN ENERGY COMPANY  
PO BOX 99  
COLSTRIP MT 59323

L. ANTHONY GEORGE  
HOLME ROBERTS & OWEN LLP  
1700 LINCOLN STREET SUITE 4100  
DENVER CO 80203

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Montana Human Rights Bureau